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November 29, 2004

Date

EV 479 327.334 US

Maggie Galle

Signature

MAIL STOP AMENDMENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:	§ Conf. No.:	3128
ATTILIO TOMASI, et al.	§	§
Filed:	§ Art Unit:	1625
October 31, 2003	§	§
Serial No.:	§ Examiner:	Charanjit Aulkakh
10/698,737	§	§
For:	§ Docket No.:	H053912.0133US0
CRYSTALLINE FORM II OF	§	§
CABERGOLINE	§ Customer No.:	01200

RESPONSE

This Response is directed to the Office Action mailed October 8, 2004, Applicants have studied the Examiner's comments. Claims 1-7 and 12 are currently pending. In view of the following remarks, Applicants respectfully submit that the application is in condition for allowance.

REMARKS

Claims 1-7 and 12 are rejected over claims 1-11 of U.S. Patent No. 6,727,363 for obviousness-type double patenting. The Examiner acknowledges that pending claims 1-7 and 12 are not identical to claims 1-11 of U.S. Patent No. 6,727,363 but holds they are not patentably distinct from each other because claims 1-7 and 12 to a process for producing crystalline Form I of cabergoline with greater than 95% purity are encompassed by the process claimed in the cited patent. Applicants disagree with this basis for the rejection. Applicants submit that the question of obviousness-type double patenting is not determined by whether the claims of the cited patent encompass (or dominate) claims 1-7 and 12 but whether the production of crystalline Form I of